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March 12, 2007

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MENOMINEE TRIBE TO BIA: WE'RE MOVING FORWARD IN KENOSHA

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*Response to Bureau of Indian Affairs indicates Tribe's Kenosha proposal
exceeds all legal requirements outlined in recent BIA letter*

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Kenosha leaders request meeting with Interior Secretary Kempthorne

KENOSHA, Wis. – The Menominee Indian Tribe of Wisconsin has sent a letter to Assistant Secretary for Indian Affairs Carl Artman confirming that the Tribe's proposed Kenosha entertainment center and casino meets – and actually exceeds – all of the strict guidelines set forth in a recent BIA letter to all tribes with pending off-reservation casino applications. Additionally, Kenosha County Executive Allan K. Kehl, Kenosha Mayor John Antaramian and State Rep. Jim Kreuser have requested a personal meeting with Interior Secretary Dirk Kempthorne to discuss "the many positive impacts" the Menominee project would have on the Kenosha community.

In her letter, Menominee Chairperson Lisa Waukau said the Tribe has always been confident in the merits of its Kenosha proposal and that it meets even the most stringent tests for off-reservation gaming. In an earlier letter to several tribes, Artman predecessor James Cason mentioned Secretary Kempthorne's concerns about off-reservation gaming and warned that any application for an off-reservation facility would be subject to enhanced federal scrutiny.

"The Tribe has always been confident that its application not only meets all the requirements of the statutes and regulations governing off-reservation gaming, but exceeds those legal requirements," Waukau wrote. "This confidence has been strengthened by the fact that the Bureau of Indian Affairs Midwest Regional Office has made a positive recommendation regarding the Tribe's application. None of the issues raised in Mr. Cason's letter leads us to reconsider either our own, or the Bureau's, prior determinations."

Cason's letter indicated that BIA scrutiny of a tribe's proposal will increase according to how far the proposed site is from a tribe's reservation. According to the letter, tribes proposing off-reservation projects must do more to demonstrate tribal need and benefits the project would bring to the tribe. In addition, federal authorities will give greater weight to input from state and local officials having jurisdiction over the proposed site.

"The (Menominee) application goes into great detail justifying the need for this acquisition, and the benefits it will bring to the Tribe," Waukau wrote. She cited statistics showing that Menominee County, which encompasses the Menominee Reservation, ranks last in the State of Wisconsin for persons living in poverty, children living in poverty and health outcomes. More than 95 percent of the Reservation in Wisconsin's Northwoods is required, by law, to be used as a sustained yield forest and cannot be used for other development and economic purposes by the Tribe. And, she stated, the Tribe's application lists in great detail how it is still suffering the devastating economic effects of federal termination.

Waukau also wrote in her letter that the Tribe's Kenosha proposal has strong support within the Kenosha community.

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“The Department’s plan to give more weight to the wishes of local governments and local citizens is not fundamentally different from current regulations,” she wrote. “In the case of the Menominee Tribe, granting such weight is welcome, since accommodating the views of the citizens and elected officials of Kenosha, Wisconsin, would result in approval of the project. The Tribe has in place intergovernmental agreements with both the City of Kenosha and the County of Kenosha. In addition, in 2004, the citizens of Kenosha County, by referendum, approved the Tribe building an off-reservation facility in Kenosha by a margin of 56 percent in favor, 44 percent opposed. The Tribe also has in place a valid Class III gaming compact with the State of Wisconsin that authorizes the Tribe to conduct gaming at the Kenosha facility once it becomes trust land.”

While Cason’s letter to tribes expressed Kempthorne’s general concerns about off-reservation casinos introducing gaming in communities that current do not have it, Waukau wrote that was not the case in Kenosha County.

“The Department’s particular concern over a Tribe bringing gaming to an area where no gaming currently exists is not applicable to the Menominee Tribe’s application,” she wrote. “The Tribe proposes to convert Dairyland Greyhound Park (a gaming facility that offers pari-mutuel wagering which would be considered Class III gaming if operated by a Tribe) that has been in existence for over 15 years, into a different type of Class III gaming facility.”

Waukau’s letter also addressed warnings expressed in Cason’s letter about potential federal legislation that would limit or eliminate off-reservation gaming. She wrote that such legislation was possible, but unlikely.

“Vigorous efforts were made to pass such legislation in the last congress and they failed,” she wrote. “The sponsor for the Senate bill, Senator McCain, is no longer on the Senate Committee on Indian Affairs, and his party no longer controls the Senate. The sponsor for the House bill, Mr. Pombo, lost his bid for re-election, and his party is no longer in control of the House of Representatives. Congress chose not to amend the Indian Gaming Regulatory Act (IGRA), and the Department, without congressional authorization, should not attempt to amend IGRA through regulations or other administrative activity.”

Finally, Waukau wrote that the Tribe anticipates the Department will make a fair decision based on the law.

“I am confident that the Department understands and respects its role as the primary guarantor of the federal government’s trust responsibility toward the Tribes, and that regardless of the personal views of anyone within the Department regarding off-reservation gaming, the decisions the Department makes will be governed by existing law and regulation, interpreted in accordance with that trust responsibility,” she wrote. “In conclusion, I urge you to continue your office’s diligent review of the Tribe’s application. We believe that review will lead you to the conclusion that acquiring the land on behalf of the Tribe will benefit both the Tribe and the Kenosha community, and that the Menominee application meets not only the legal tests in place, but also addresses the other concerns regarding off-reservation gaming that have been raised in Congress, and in Mr. Cason’s letter.”

Kehl, Antaramian and Kreuser reach out to Washington

In a separate letter to Secretary Kempthorne, Kenosha’s county executive, Mayor, and state representative reiterated the community’s strong support of the Menominee proposal.

“As you are aware, the poorest Native Americans in Wisconsin, the Menominee Tribe, have worked to develop an off-reservation casino and entertainment center in the Kenosha community,” the three wrote. “The proposed casino has been approved by City of Kenosha referendum in 1998 and by countywide referendum in 2004. Recently, the Midwest regional office of the Bureau of Indian Affairs approved the project. At this juncture, the City and County of Kenosha anxiously await the Bureau of Indian Affairs’ final approval.

“To that end, we look forward to discussing with you the many positive impacts this project will have on the community we represent and the regional generally, as well as the ongoing process and criteria that must be met for approval,” they wrote.

Waukau, Kehl, Antaramian and Kreuser said they hoped to meet with Department officials in Washington, D.C., in the near future.

With more than 8,100 members, the Menominee Indian Tribe of Wisconsin is one of the state’s largest Indian tribes and also one of its poorest. The Tribe, which was terminated by Congress in 1954 and restored in 1973, is still struggling financially to overcome that devastating period in its history.

In order to provide for the significant health care, educational and other needs of its members, the Menominee Indian Tribe of Wisconsin announced plans to build an \$808 million entertainment center and casino at Kenosha’s Dairyland Greyhound Park in January 2004. Economic analyses show the project would create more than 3,000 jobs and pay state and local government over \$2 billion – more than any other Indian tribe or Wisconsin business – over the facility’s first 25 years of operation.